

## **Exhibit 1**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

IN RE: BAYER CORP. COMBINATION  
ASPIRIN PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

THIS PLEADING RELATES TO:

ALL CASES

09-md-2023 (BMC)(JMA)

**COGAN**, District Judge

**DECLARATION OF ELIZABETH A. FEGAN OF  
HAGENS BERMAN SOBOL SHAPIRO LLP IN SUPPORT OF FEE APPLICATION**

I, Elizabeth A. Fegan, pursuant to 28 U.S.C. §1746, hereby declare as follows:

1. This declaration is based upon my personal knowledge.

2. I am an attorney currently licensed in good standing to practice law in the state of Illinois. I am a partner with the law firm Hagens Berman Sobol Shapiro LLP and managing partner of the firm's Illinois office. In addition, and together with Michael London of Douglas & London P.C., I am Lead Class Counsel for the Settlement Classes.

3. My firm, Hagens Berman Sobol Shapiro LLP, is dedicated to helping victims with claims of fraud and negligence that adversely impact a broad group of people, representing plaintiffs in complex class-action and multi-party litigation. Since its founding in 1993, the firm has been involved in significant matters including:

- a. *State of Washington, et al v. Philip Morris, et al.* - Representing 13 states in the largest recovery in litigation history - \$206 billion;
- b. *Visa-Mastercard Antitrust Litigation* - Serving as co-lead counsel in the largest antitrust settlement in history - valued at \$27 billion;

- c. *McKesson Drug Litigation* – Serving as lead counsel in these racketeering cases against McKesson for drug pricing fraud that settled for more than \$444 million on the eve of trials;
  - d. *DRAM Antitrust Litigation* – Working as co-lead counsel, settling for \$345 million in favor of purchasers of dynamic random access memory chips (DRAM);
  - e. *Average Wholesale Price Drug Litigation* - Serving co-lead counsel in this ground-breaking drug pricing case against the world's largest pharmaceutical companies, resulting in a victory at trial, with the court approving a total of \$338 million in settlements;
  - f. *Enron ERISA Litigation* - Hagens Berman was co-lead counsel in this ERISA litigation, which recovered in excess of \$250 million, the largest ERISA settlement in history;
  - g. *Charles Schwab Securities Litigation* - The firm was lead counsel in this action alleging fraud in the management of the Schwab YieldPlus mutual fund; a \$235 million class settlement was approved by the court;
  - h. *Lupron Consumer Litigation* - A \$150 million settlement on behalf of patients using Lupron for prostate cancer; and
  - i. *Expedia Hotel Taxes and Fees Litigation* - Hagens Berman obtained summary judgment in this class action to recover deceptive service fees and settled the case for \$123.4 million.
4. In addition, I have been actively engaged in the practice of law since 1995, with substantial experience in complex litigation and class actions, including in antitrust, consumer

protection and product liability cases. Some of my recent case successes serving as co-lead counsel on behalf of plaintiffs includes successes in such matters as:

- a. *McDonough, et al. v. Toys "R" Us, Inc.*, No. 2:06-cv-242-AB (E.D. Pa.), in which we reached a \$35 million settlement in a nationwide antitrust class action on behalf of consumers against Babies 'R Us and manufacturers of high-end strollers, high chairs, carriers and car seats, with the district court entering final approval;
- b. *In re Pre-Filled Propane Tank Marketing and Sales Practices Litigation*, MDL No. 2086 (W.D. Mo.), in which the court granted final approval to a settlement providing up to \$25 million in refunds to purchasers of Blue Rhino propane tanks in a nationwide antitrust class action, a result obtained after an earlier settlement in the case that provided at least \$5 million in refunds to purchasers of AmeriGas propane tanks;
- c. *In re Aurora Dairy Corp. Organic Milk Marketing & Sales Practices Litigation*, No. 08-md-1907 (E.D. Mo.), in which the court granted preliminary approval to a \$7.5 million settlement, plus significant injunctive relief, in a nationwide consumer fraud, breach of warranty, and unjust enrichment class action for consumers of organic milk products; and
- d. *Wiginton, et al. v. CB Richard Ellis*, No. 02-cv-6832 (N.D. Ill.), in which we settled sexual harassment claims on behalf of a nationwide class of 16,000 current and former female employees of a commercial property brokerage firm. In addition to requiring changes to human resources policies and procedures, the innovative settlement afforded class members the opportunity to participate in a

stream-lined claims process that provided the potential for individual awards up to \$150,000 per class member.

5. As co-lead counsel in this case, I personally rendered legal services, and was personally responsible for additional staffing and activity conducted on plaintiffs' behalf by other attorneys and paraprofessionals at my firm, including overseeing all services rendered. Based on my activities and oversight in this case, as well as my review of my firm's billing records maintained in this case, I have personal knowledge of the time attorneys and paraprofessionals at my firm spent rendering services on behalf of the plaintiffs, the hourly rates charged for those services, and the necessary costs incurred in the normal course of this litigation.

6. From inception of this litigation through January 10, 2013, the attorneys and paraprofessionals at my firm expended the following number of hours, at the following hourly rates, in performing legal services on behalf of the plaintiffs in this case:

<u>Timekeeper</u>	<u>Position</u>	<u>Rate/Hr</u>	<u>Hours</u>	<u>Lodestar</u>
Berman, Steve W.	Managing Partner	\$725.00	1.50	\$1,087.50
Fegan, Elizabeth, A.	Partner and Co-Lead Counsel	\$525.00	1699.60	\$892,290.00
Friedman, Jeffrey, D.	Partner	\$525.00	5.00	\$2,625.00
O'Hara, Chris, A.	Partner	\$500.00	67.00	\$33,500.00
Zweig, Jason, A.	Partner	\$500.00	5.90	\$2,950.00
Tabbara, Ivy Arai	Partner	\$400.00	956.40	\$382,560.00
Barnes, Lauren, G.	Partner	\$400.00	0.25	\$100.00
Kurowski, Daniel, J.	Associate	\$350.00	1633.40	\$571,690.00
Poinke, Erica	Attorney	\$250.00	840.51	\$210,127.50
Hack, Chris	Attorney	\$250.00	385.75	\$96,437.50
Flexer, Carrie, L.	Paralegal	\$190.00	76.20	\$14,478.00
Haegele, Robert, N.	Paralegal	\$170.00	7.25	\$1,232.50
Cornelius, Dawn, D.	Paralegal	\$170.00	6.00	\$1,020.00
Kunzler, Larry J.	Paralegal	\$170.00	5.50	\$935.00
Bain, Jennifer, A.	Paralegal	\$150.00	0.50	\$75.00

<u>Timekeeper</u>	<u>Position</u>	<u>Rate/Hr</u>	<u>Hours</u>	<u>Lodestar</u>
Carey, Sheila, H.	Paralegal	\$150.00	656.35	\$98,452.50
Garcia, Adrian, E.	Paralegal	\$150.00	3.00	\$450.00
Miller, Brian, R.	Paralegal	\$150.00	0.50	\$75.00
Cavanaugh, Brandon	Law Clerk	\$150.00	32.45	\$4,867.50
Goldstein, Mark	Law Clerk	\$150.00	34.00	\$5,100.00
Marrero, Alma, C.	Assistant	\$150.00	17.00	\$2,550.00
Casillas, Linalis	Assistant	\$150.00	1.00	\$150.00
<b>TOTALS</b>			<b>6,435.06</b>	<b>\$2,322,753.00</b>

7. Based on my knowledge and experience, the rates charged by the attorneys and paraprofessionals at my firm are within the range of rates normally and customarily charged in the states of California, Illinois, Massachusetts, New York and Washington by attorneys and paraprofessionals of similar qualifications and experience in cases of this kind.

8. In my judgment, and based on my years of experience, the number of hours expended and the services performed by the attorneys and paraprofessionals at my firm and under my supervision were reasonable and expended for the benefit of the plaintiffs in this litigation.

9. The total number of hours spent by each attorney and paraprofessional in rendering services through the date of this declaration 6,425.06, multiplied by his or her individual rate per hour, equals \$2,322,753.00.

10. My law firm also incurred expenses in the amount of \$141,422.28. These expenses include: filing fees, service fees, case admission fees, facsimile and copying charges, computer research, long distance telephone charges, UPS and other delivery charges, travel expenses, litigation fund payments, mediation expenses, and other case-related expenses that commonly benefitted plaintiffs. Based on my knowledge and experience, all of these expenses were necessary and reasonable, and incurred for the benefit of the plaintiffs in this litigation.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 22, 2013

By: 

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